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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,204	07/10/2003	Shunpei Yamazaki	740756-2630	9770
22204	7590	02/14/2005		EXAMINER
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			TRAN, TAN N	
			ART UNIT	PAPER NUMBER
			2826	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AV

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/616,204	YAMAZAKI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	TAN N TRAN	2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 July 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-33 is/are pending in the application.  
 4a) Of the above claim(s) 19-33 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*Minhloan Tran*  
**Minhloan Tran**  
**Primary Examiner**  
**Art Unit 2826**

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>07/10/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Election/Restriction***

1. Applicant's election with traverse of species I, claims 1-18 is acknowledged. The traversal is on the ground(s) that "the restriction requirement as being outside the boundaries established in MPEP 806.04(e) and 806.04(f)"; "the outstanding restriction requirement fails to provide an basis for finding that the restricted claims are mutually exclusive as required by MPEP 806.04(f). Indeed, merely finding that claims are patentably distinct does not provide a basis for requiring an election of inventions, since if that were the case every dependent claim ever submitted in an application would not properly the subject of Restriction Requirement, which of course is not the case" and "certainly claims 19-33 are not properly established as being directed to different mutually exclusive inventions, and at the very least it is respectfully submitted that these claims should be examined in the present". These are not found persuasive because applicant did not submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence of admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention. Moreover, it clearly shows that the search is not coextensive as evidenced by the different fields of search as cited in the previous restriction requirement. Thus, it is clear that the examination of all of the disclosed species would be an undue burden. Therefore the election requirement is made final.

### **Specification**

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinata et al. (5,610,742) in view of Kanbara et al. (5,629,783).

With regard to claims 1,3,4,6,7,9,10,12,13,15,16,18, Hinata et al. discloses a display device is incorporated into a personal computer having a pair of substrates 1 that are each flexible and made of an organic resin plastic material; a sealing member 5 provided between end portions of the pair of substrates 1, wherein a coating film 13 is formed in end portions of the pair of substrates 1, on outer surface of one of the pair of substrate 1, and on outer surfaces of the sealing member 5. (Note lines 55,56, column 1, fig. 5 of Hinata et al.)

Hinata et al. does not disclose a light-emitting element provided between the pair of substrates.

However, Kanbara et al. discloses a light-emitting element 12 provided between the pair of substrates (1,2). (Note fig. 1 of Kanbara et al.).

Therefore, it would have been obvious to one of ordinary skill in the art to form the Hinata et al.'s device having a light-emitting element provided between the pair of substrates such as taught by Kanbara et al. in order to emit light upon incidence of light is formed on the entire surface of each pixel electrode.

With regard to claims 2,5,8,11,14,17, Hinata et al. and Kanbara et al. disclose all the claimed subject matter except for the light emitting element includes a compound that emits light via a triplet excited state. However, it would have been obvious to one of ordinary skill in the art to form the light emitting element includes a compound that emits light via a triplet excited state in order to increase light efficiency of device, because Kanbara et al.'s structure is conventional in the art for forming light-emitting device 12 having red, green and blue light. (Note fig. 1 of Kanbara et al.) is cited to support for the well know position.

### **Conclusion**

4. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Tan Tran whose telephone number is (571) 272-1923. The examiner can normally be reached on M-F 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

TT

Jan 2005